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Committee on the Peaceful Uses of Outer Space

Definition and delimitation of outer space: views of States members and permanent observers of the Committee

Note by the Secretariat

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II. Replies received from States members of the Committee

Czechia

[Original: English]
[15 December 2017]

Czechia acknowledges that defining outer space and delimiting airspace and outer space is convenient, as doing so would bring legal certainty to the conduct of airspace and outer space activities. However, the constant progress of technology does not facilitate reaching agreement on fixed definitions recognized by the international community as a whole; rather, it requires a flexible approach.

Should States establish their own definitions of outer space and delimitations of airspace by designating the upper limits of their sovereignty in their national legislation, it could lead to legal uncertainty and differences when applying respective legal regimes.

Therefore, Czechia supports the idea of keeping the issue under consideration and not insisting on its immediate resolution.

Czechia maintains that outer space activities should be governed by space law, whereas airspace activities should be governed by air law. In that respect, a definition or interpretation of "space object", "space activities" and other related terms would enable the appropriate application of respective legal regimes.

South Africa

[Original: English]
[12 December 2017]

South Africa distinguishes between activities undertaken in its national airspace and those in outer space through legislation covering both areas (see A/AC.105/865/Add.20), owing to differences in activities and technological capabilities relating to those spaces.

Airspace activities in South Africa are governed by the Department of Transport under the Civil Aviation Act of 2009 (Act No. 13 of 2009), whereas the country's outer space activities are governed by the Department of Trade and Industry under the Space Affairs Act of 1993 (Act No. 84 of 1993). The latter legislation is currently under review by the Government. In relation to outer space activities, the Space Affairs Act provides a definition of the term "outer space" (see A/AC.105/865/Add.20). The Space Affairs Act also provides definitions of the terms "space object" and "launching". In that regard, the nature of a given activity determines which law is applicable, rather than the altitude at which the activity takes place.

Owing to rapid developments in technology, which have enabled suborbital flights, there is a possibility that the boundary between airspace and outer space could be blurred. Although there is a need to define and delimit outer space, there is an even greater need to establish a legal regime that minimizes uncertainty with respect to the distinction between airspace and outer space.

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II. Replies received from States members of the Committee

Mexico

[Original: English]
[13 December 2017]

Mexico believes that the boundary between outer space and airspace must continue to be discussed and, in that respect, bases its position on its fundamental legislative principle that the nation has direct ownership of the space located above the national territory, to the extent and within the terms established by international law.

Outer space should be delimited for many and diverse reasons:

Liability

If a space object caused an accident in the airspace through which civil aircraft pass and damage was caused to an aircraft and its passengers, would the following conventions apply: Convention on International Liability for Damage Caused by Space Objects, Convention for the Unification of Certain Rules Relating to International Carriage by Air or Convention for the Unification of Certain Rules for International Carriage by Air?

In the case of suborbital flights that pass through both airspace and outer space, if the space object breaks down in airspace, would the Liability Convention or the Convention for the Unification of Certain Rules Relating to International Carriage by Air apply?

Security

This is relevant to both aircraft and space objects. To date, both fly through so-called "airspace", which, in accordance with the Convention on International Civil Aviation, extends to 19 miles above the surface of the Earth. Military aircraft and space objects in general, including satellites, fly beyond that limit.